

THE HONORABLE RICHARD A. JONES
THE HONORABLE DAVID W. CHRISTEL

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AGCS MARINE INSURANCE
COMPANY, GOODRICH
CORPORATION, GOODRICH
AEROSPACE CANADA LTD., and
UNITED TECHNOLOGIES
CORPORATION,

Plaintiffs,

v.

EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC. and
EXPEDITORS INTERNATIONAL
FORWARDING,

Defendants.

IN ADMIRALTY

NO. 19-718-RAJ-DWC

**JOINT STIPULATED MOTION AND
ORDER TO EXTEND CASE SCHEDULE
DUE TO COVID-19 QUARANTINE**

COME NOW the above-named parties by and through their counsel of record and respectfully submit their Joint Stipulated Motion to Extend Case Schedule Due to COVID-19 Quarantine.

BACKGROUND

This case involves a claim for damage to a landing gear strut bearing shipped between Dubai, UAE and Miami, Florida in May 2018 when the crate in which it was transported fell off a forklift at Defendant's warehouse in Miami. The primary issues in the

1 case involve the applicability and amount of a liability limitation and the cause of the
2 damage.

3 The Complaint was filed on May 14, 2019 (dkt 1). Following service, the parties
4 engaged in extensive settlement discussions to try to resolve the claim, but were
5 unsuccessful. An Answer to the Complaint was filed on 10/15/19 (dkt 8). The Court issued
6 an Order Regarding Initial Disclosures, Joint Status Report and Early Settlement on
7 11/13/19 (dkt 12). The parties exchanged Initial Disclosures on 12/18/19 and filed their
8 Joint Status Report and Discovery Plan on 12/20/19 (dkt 14). On 1/3/20, the Court issued an
9 Initial Pretrial Scheduling Order setting a discovery cut off of 7/20/20 and a dispositive
10 motion filing deadline of 8/20/19 (dkt 15). No trial date has yet been set.

11 **DISCOVERY**

12 The parties anticipate that the primary issue in the case, i.e., the liability limitation,
13 can be resolved by motion practice, after which settlement discussions will take place. The
14 parties need to depose witnesses related to the issues; the witnesses reside in Seattle and
15 Miami. Plaintiffs' counsel is in Seattle, and Defendants' counsel is located in Long Beach,
16 California. It was necessary to coordinate scheduling and travel to take these depositions.
17 Plaintiff's counsel, a solo practitioner, was involved with depositions between late January
18 and mid-February in a different case. The parties were unable to begin these depositions
19 until March and expected to be in a position to file cross motions for partial summary
20 judgment on the liability limitation issue in either June or July.

21 **THE COVID-19 QUARANTINE**

22 **1. The State of Washington's Restrictions**

23 On 1/21/20, the Washington State Department of Health confirmed the first known
24 U.S. case of COVID-19, a respiratory illness that can cause serious illness or death, in
25

1 Snohomish County, Washington. State of Emergency Proclamation by Governor Inslee, No.
2 20-05 (“Proclamation”).

3 On 1/31/20, the U.S. Department of health and Human Services declared a public
4 health emergency due to COVID-19, designating the risk as “high.” Id. Over the next
5 month, 66 cases of COVID-19 were identified throughout the United States, with increasing
6 cases in Washington. Id. By the end of February, the Washington Department of Health
7 confirmed localized person-to-person spread, which significantly increased the risk of
8 exposure and infection to the general public. Id.

9 On February 29, 2020, the State of Washington issued a proclamation declaring a
10 State of Emergency due to the COVID-19 pandemic after the first death from the disease
11 was reported. Id. Through mid-March, Washington experienced the highest number of
12 COVID-19 cases per capita in the U.S. By March 13th, confirmed cases of COVID-19 had
13 spread to 15 Washington counties, comprising 75% of the State’s population. Proclamation
14 by Governor Inslee, No. 20-09. On 3/13/20, Governor Inslee closed all K-12 schools due
15 the significant role of children in transmitting respiratory viruses. Id.

16 On March 23, 2020, the State of Washington issued a full “Stay At Home” Order,
17 requiring all businesses to close, except for those deemed essential, and required all persons
18 to maintain “social distancing” of at least six feet.
19

20 2. The State of Florida’s Restrictions

21 On 3/1/20, the State of Florida Department of Public Health declared the existence of
22 a Public Health Emergency due to COVID-19. On 3/9/20, Governor DeSantis issued
23 Executive Order 20-52 declaring a State of Emergency for the entire State of Florida due to
24 COVID-19. On 3/20/20, Governor DeSantis issued Executive Order 20-70 adopting and
25 applying the Center for Disease Control guidance for social distancing and limiting the size

1 of gatherings, and closing restaurants and other food service businesses with seating for
2 more than 10 people in Miami-Dade County.

3 On 3/11/20, the Mayor of Miami-Dade County, Florida issued a Declaration of Local
4 State of Emergency in connection with the COVID-19 virus due to the health risk posed to
5 local residents, which allowed him to issue orders necessary to protect life. On 3/21/20, the
6 Mayor of Miami-Dade County, Florida issued Emergency Order 09-20, closing local hotels
7 except for Essential Lodgers.

8 On 3/23/20, Governor DeSantis issued Executive Order 20-80, which required “all
9 persons whose point of departure originates from outside the State of Florida in an area with
10 substantial community spread ... and entering the State of Florida through airports to isolate
11 or quarantine for a period of 14 days from the time of entry into the State of Florida or
12 duration of the person’s presence in the State of Florida, whichever is shorter.”

13 These Orders effectively precluded the parties from taking depositions in Florida.
14

15 3. This Court’s Restrictions and Continuances of Trials

16 On 3/6/20, Chief Judge Martinez issued General Order 01-20, recognizing the spread
17 and significant health risk posed by the COVID-19 virus and continuing in court
18 appearances in civil and criminal cases for 30 days. On 3/17/20, General Order 02-20 was
19 issued, which closed the courthouse and continued all civil and criminal trials through
20 6/1/20. On 3/30/20, Chief Judge Martinez issued General Order 04-20 in response to the
21 “developing outbreak” of COVID-19. That Order noted the Judicial Conference of the
22 United States found that emergency conditions due to the national emergency declared by
23 the President would materially affect the Federal courts by restricting in person access and
24 authorized the use of video or telephone conferencing for various proceedings in criminal
25 cases, subject to consent of the defendant. If such consent was not given, the Court noted

1 this “may be considered as grounds for a continuance or other appropriate relief in the
2 interests of justice” since “hearings currently cannot be conducted in person without
3 seriously jeopardizing public health and safety.”

4 On 4/13/20, the Court issued General Order 07-20, continuing the procedures
5 outlined in its prior Orders for 30 days and finding in light of “the effect of the [current]
6 public health situation on the witnesses, counsel, and Court staff,” continuing criminal cases
7 outweighed “the best interests of the public and any defendant’s right to a speedy trial.”

8 4. Reopening of Businesses and the Court

9 On May 1, 2020, the State of Washington announced an extension of its existing Stay
10 at Home Order, but allowed for reopening of businesses in four phases. Each phase was to
11 last a minimum of three weeks. The First phase, which began on May 5th, allowed
12 resumption of limited activities such as certain construction projects, drive-in faith services,
13 vehicle sales, pickup retail services, and limited outdoor recreation. The Second phase
14 would allow, among other things, outdoor gatherings of less than 5 people and reopening of
15 professional services/office based businesses, although telecommuting was still strongly
16 encouraged. King County has not qualified to enter Phase 2, but applied on 5/27/20 for a
17 “modified Phase 1” reopening of some outdoor dining, salons and retail, and small private
18 outdoor gatherings. If granted, this would not include in office depositions, although it
19 appears such activities may begin in the next 30 days.

20 On 5/4/20, Governor DeSantis issued Executive Order 20-112, directing that Florida
21 would start Phase 1 of the of the plan published by the “Task Force to Re-Open Florida”
22 allowing limited reopening of restaurants. However, the Order “strongly encouraged”
23 people with conditions making them susceptible to the COVID-19 virus to continue to stay
24 home, to “avoid non-essential travel,” and to follow CDC isolation guidelines if coming
25

1 from an area with a “significant presence of COVID-19.” Moreover, this Order continued in
2 effect prior Executive Order 20-80 requiring people coming into the State from an area of
3 substantial spread of the virus to quarantine for 14 days upon entry.

4 On 5/8/20, Governor DeSantis issued Executive Order 20-114 extending the State of
5 Emergency Due to COVID-19 in Florida by 60 days.

6 On 5/27/20, the Mayor of Miami-Dade County, Florida extended the State of Local
7 Emergency Declaration, first entered on 3/11/20. The Mayor also issued Emergency Order
8 23-20, which rescinded the previous closure order for hotels. However, the Order required
9 social distancing, hand washing, wearing of face masks or coverings, etc. for hotel guests.

10 On 5/13/20, the Court issued General Order 08-20. This Order noted that limited in-
11 person court operations may be appropriate to resume by 8/3/20 given the continuing health
12 risk and the fact that King County remains in Phase 1 of reopening that prohibits indoor
13 business activities except for essential services. Accordingly, the Court ordered that all civil
14 and criminal trials shall be further continued until 8/3/20. This is a period of 5 months since
15 trials were first suspended.
16

17 5. Alternative Means of Conducting Depositions

18 The Federal Rules of Civil Procedure allow parties to agree to use of video or
19 telephonic depositions. The parties have explored these alternative methods for purposes of
20 taking these depositions, but did not find them adequate in this case. The parties wish to
21 depose witnesses in person, but will continue to evaluate these options in view of the
22 existing public health risk.
23

24 **REQUEST FOR RELIEF**

25 The parties estimate that the coronavirus quarantine has and will continue to delay
discovery in this case by at least four (4) months, given the restrictions on travel and

1 restarting business activities in both Washington and Florida. They have been unable to
 2 complete necessary discovery due to COVID-19 quarantine orders and a well-founded fear
 3 of contracting the virus (e.g. plaintiff's counsel is over 60 yo). Their inability to take
 4 depositions of necessary witnesses affects all other dates in the case, and relief from the
 5 current deadlines is necessary.

6 According, the Parties move the Court for a four month extension of the pending
 7 case schedule as follows:

8 Disclosure of Expert Reports under FRCP 26(a)(2)	10/5/20
9 Disclosure of Rebuttal Expert Reports under FRCP 26(a)(2)	11/2/20
10 All motions related to discovery must be filed by	11/5/20
11 Discovery completed by	11/24/20
12 Dispositive motions deadline	12/31/20

14 The parties believe based on best available information and barring further
 15 extensions of the pending State quarantine orders, either now or in the future, they can
 16 complete discovery and prepare the case for trial by these dates.

17 DATED this 4th day of June, 2020.

18 GASPICH LAW OFFICE PLLC

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19 s/Anthony J. Gaspich

s/Cameron W. Roberts

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ORDER

The Parties having jointly moved to Amend the Case Schedule, and having demonstrated good cause to extend such dates,

NOW, THEREFORE,

IT IS HEREBY ORDERED that the trial and all associated case dates be continued according to the Parties' proposed amended case schedule, as set forth above.

ENTERED THIS 8th day of June, 2020.



David W. Christel
United States Magistrate Judge

Presented by:

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4 **CERTIFICATE OF SERVICE**

5 I hereby certify that on June 4, 2020, I electronically filed the foregoing with the
6 Clerk of the Court using the CM/ECF, which will send notification of such filing to:

7 Cameron W. Roberts, Esq. at cwr@tradeandcargo.com

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9 s/Anthony J Gaspich

10 Anthony J. Gaspich
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